

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Community Broadcast Group Inc.)	File No. EB-02-DL-0201
)	
)	NAL/Acct.No. 200232500005
Owner of Unregistered Antenna Structure Located at)	
32° 33' 50"N / 094° 21'04"W at Marshall, Texas)	
Tyler, Texas)	FRN 0003-7731-40

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: **July 1, 2002**

By the Enforcement Bureau, Dallas Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that Community Broadcast Group, Inc. ("Community Broadcast"), owner of an unregistered antenna structure located at 32° 33' 50" North Latitude by 094° 21'04" West Longitude, in Marshall, Texas, willfully and repeatedly violated Section 17.4(a) of the Commission's Rules ("Rules")¹ by failing to register its antenna structure. We conclude that Community Broadcast is apparently liable for forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On April 17, 2002, an agent from the Commission's Dallas Field Office inspected Community Broadcast's antenna structure located at or near geographical coordinates 32° 33' 50" North Latitude by 094° 21'04" West Longitude, in Marshall, Texas. This structure is used as part of radio stations KZEY-FM and KMHT, Marshall, Texas. Community Broadcast is the licensee of both radio stations. The agent checked the FCC's Antenna Structure Registration records and determined that the antenna structure was not registered with the FCC. Community Broadcast subsequently provided documentation to the Commission's Dallas Field Office showing that Community Broadcast owned the antenna structure and had acquired it on or about August 31, 2000.

3. On May 7, 2002, a check of the FCC's antenna structure registration database revealed that the antenna supporting structure was still not registered.

¹ 47 C.F.R. § 17.4(a).

III. DISCUSSION

4. Section 17.4(a) of the Rules requires the owner of an antenna structure that required notice to the Federal Aviation Administration ("FAA") to register the antenna structure with the Commission. Community Broadcast's antenna structure required FAA notification because it exceeded 200 feet in height.² From at least April 17 to May 7, 2002, Community Broadcast owned an antenna structure that required notice to the FAA, and thus required Commission registration, yet Community Broadcast failed to register the structure.

5. Based on the evidence before us, we find that from at least April 17, 2002 through May 7, 2002, Community Broadcast repeatedly³ and willfully⁴ violated Section 17.4(a) of the Rules by failing to register its antenna supporting structure.

6. Pursuant to Section 1.80 of the Rules, the base forfeiture amount for failure to file required forms or information (i.e. failure to file an application for antenna structure registration) is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),⁵ which include the nature, circumstances, extent, and gravity of the violation(s), and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Considering the entire record and applying the statutory factors to the instant case, a \$3,000 forfeiture is warranted.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Community Broadcast Group, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *Notice of Apparent Liability*, Community Broadcast Group, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the letterhead above.

² See 47 C.F.R. § 17.7(a).

³ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies to Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau – Technical and Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, DC 20554.⁸

13. IT IS FURTHER ORDERED THAT a copy of this *Notice of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to Community Broadcast Group, Inc. P.O. Box 4248, Tyler, Texas 75670.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director – Dallas Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.